

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

In Re: COOK MEDICAL, INC., IVC FILTERS
MARKETING, SALES PRACTICES AND
PRODUCTS LIABILITY LITIGATION

Case No. 1:14-ml-2570-RLY-TAB
MDL No. 2570

This Document Relates to:

David Davis

Civil Case # 1:20-cv-06186-RLY-TAB

**MOTION TO SUBSTITUTE PARTY PLAINTIFF
AND FOR LEAVE TO FILE THIRD AMENDED SHORT FORM COMPLAINT**

COMES NOW, Gloria Roman, surviving spouse of David Davis, and files this motion to substitute as the proper plaintiff pursuant to Federal Rule of Civil Procedure 25(a)(1). In support thereof, the Movant respectfully shows the court the following:

1. Plaintiff David Davis filed his Original Complaint in the United States District Court for the Southern District of Mississippi on June 26, 2020. The case was transferred to the United States District Court for the Southern District of Indiana on August 10, 2020.

2. Plaintiff David Davis died on or about May 13, 2024.

3. On May 15, 2025, Plaintiff filed a suggestion of death pursuant to Federal Rule of Civil Procedure 25(a)(1). *See* Doc. No. 26876. Plaintiff's counsel recently learned of the death of David Davis after contacting his spouse.

4. Gloria Roman, surviving spouse of David Davis, is the proper party plaintiff to substitute for Plaintiff-decedent David Davis and to proceed forward with the surviving products liability lawsuit on Plaintiff-decedent's behalf, pursuant to Fed. R. Civ. P. 25(a)(1), stating, "[i]f a

party dies, and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent's successor or representative."

5. Plaintiff thus moves to substitute Gloria Roman, as Executor of the Estate of David Davis, Deceased, as Plaintiff in the present action.

6. Plaintiff also moves to amend the Complaint, as well as the caption of the Complaint, to correct the proper Plaintiff (specifically, Gloria Roman, as Executor of the Estate of David Davis, Deceased) and to update and include information, allegations, and actions within the Complaint to reflect that Plaintiff David Davis is now deceased.

7. A proposed Third Amended Short Form Complaint is attached hereto as Exhibit "A".

8. Pursuant to Federal Rules of Civil Procedure 15(a)(2), a party may amend its pleading only with the opposing party's written consent or the Court's leave. The Court should freely give leave when justice so requires.

WHEREFORE, counsel for Plaintiff requests this Court for the following relief (1) the Court substitute Gloria Roman, as Executor of the Estate of David Davis, Deceased, as Party Plaintiff for David Davis; (2) the Court grant leave to file the attached Third Amended Short Form Complaint (Case 1:20-cv-06186-RLY-TAB); and, (3) the Court deem the attached Third Amended Short Form Complaint filed instant. A proposed Order is attached hereto as Exhibit "B".

Dated: August 13, 2025.

Respectfully Submitted,

/s/ Ben C. Martin

Ben C. Martin, TX Bar No. 13052400

Ben Martin Law Group, PLLC

3141 Hood Street, Suite 600

Dallas, TX 75219

Tel.: (214) 761-6614

Fax: (214) 744-7590

bmartin@bencmartin.com

Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on August 13, 2025, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the CM/ECF participants registered to receive service in this MDL.

/s/ Ben C. Martin

Ben C. Martin